



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Mark R. Chassin, M.D., M.P.P., M.P.H.
Commissioner

Paula Wilson
Executive Deputy Commissioner

June 23, 1994

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Aaron Grushko, R.P.A.
2 Tulip Street
Cedarhurst, New York 11516-2623

Anthony Z. Scher, Esq.
Wood & Scher
14 Harwood Court, Suite 512
Scarsdale, New York 10583

Jean Bresler, Esq.
Associate Counsel
NYS Department of Health
5 Penn Plaza - Sixth Floor
New York, New York 10001

RE: In the Matter of Aaron Grushko, R. P. A.

Dear Mr. Grushko, Mr. Scher and Ms. Bresler :

Enclosed please find the Determination and Order (No. 94-93) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified mail or in person** to:

Office of Professional Medical Conduct
New York State Department of Health
Corning Tower - Fourth Floor (Room 438)
Empire State Plaza
Albany, New York 12237

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "(t)he determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays all action until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by **certified mail**, upon the Administrative Review Board **and** the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Empire State Plaza
Corning Tower, Room 2503
Albany, New York 12237-0030

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Sincerely,

A handwritten signature in cursive script that reads "Tyrone T. Butler / m m n".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:mmn

Enclosure

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

-----X
IN THE MATTER : DETERMINATION
OF : AND
AARON GRUSHKO, R.P.A. : ORDER
-----X
NO. BPMC-94-93

A Notice of Hearing and Statement of Charges, both dated March 15, 1994, were served upon the Respondent, Aaron Grushko, R.P.A. MICHAEL R. GOLDING, M.D. (Chair), ALLAN GIBOFSKY, M.D., and GEORGE C. SIMMONS, Ed.D., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. LARRY G. STORCH, ADMINISTRATIVE LAW JUDGE, served as the Administrative Officer. The Department of Health appeared by Jean Bresler, Esq., Associate Counsel. The Respondent appeared by Wood & Scher, Anthony Z. Scher, Esq., of Counsel. A hearing was held on June 1, 1994. Evidence was received and witnesses sworn and heard and transcripts of these proceedings were made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing where a licensee is charged solely with a violation of Education Law §6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York or another jurisdiction, or upon a prior administrative adjudication regarding conduct which would amount to professional misconduct, if committed in New York. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In the instant case, Respondent is charged with professional misconduct pursuant to Education Law §6530(9)(a)(i). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order in Appendix I.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parentheses refer to transcript page numbers or exhibits. These citations represent evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence.

1. Aaron Grushko, R. P. A. (hereinafter, "Respondent"), was authorized to practice medicine as a Registered Physician

Assistant in New York State by the issuance of registration number 000753 by the New York State Education Department. Respondent is currently registered with the New York State Education Department for the period January 1994 through December 1995. (Pet. Ex. #5).

2. On or about March 22, 1988, Respondent was convicted, upon a plea of guilty, of violating New York Education Law §6512, in that Respondent practiced medicine as a resident at Kings County Hospital pursuant to a fraudulently obtained medical degree. Respondent knew that he had not fulfilled the required training to qualify for a medical degree which would enable him to enter into such a residency and practice medicine. (Pet. Ex. #3 and 4).

3. Respondent was sentenced to a conditional discharge on or about March 22, 1988. (Pet. Ex. #4).

CONCLUSIONS OF LAW

The following conclusions were made pursuant to the Findings of Fact listed above. All conclusions resulted from a unanimous vote of the Hearing Committee unless noted otherwise.

The Department alleged one specification of professional misconduct against Respondent, arising out of his prior criminal conviction. The Hearing Committee concluded that the Department had sustained its burden of proof with regard to the allegations. The preponderance of the evidence demonstrates that Respondent was convicted, upon a plea of guilty, to one count of the unauthorized practice of medicine, in violation of

Education Law §6512. As a result, the Hearing Committee voted to sustain the Specification of professional misconduct.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determined that Respondent's license to practice medicine as a physician assistant in New York State should be suspended for a period of one year from the effective date of this Determination and Order. The final ten months of the suspension shall be stayed, and Respondent shall be placed on probation. The complete terms of probation are set forth in Appendix II of this Determination and Order and incorporated herein. This determination was reached upon due consideration of the full spectrum of penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties.

The record clearly sets forth the fact that Respondent committed a serious breach of the public trust that is placed upon those granted the privilege of practicing as a physician assistant. Respondent was initially registered as a physician assistant in 1977. In 1979, Respondent entered medical school in Mexico. Sometime in 1980, Respondent falsified letters indicating that he had completed certain clinical clerkships which Respondent had not, in fact, completed. Respondent subsequently transferred to a medical school in the Dominican Republic and received his medical degree in 1981. The medical

degree was fraudulently obtained.

Respondent worked as a physician assistant until he passed the ECFMG examination in 1983. He subsequently entered a pediatric residency at Kings County Hospital. In 1985, Respondent's deception was discovered and he was terminated from the residency program. The matter was finally resolved by the guilty plea on March 22, 1988.

Respondent's misconduct represented a serious breach of the ethical standards of his profession. In addition, by holding himself out as a physician without the necessary training, he placed his patients at risk. Under other circumstances, a more severe sanction might be warranted. However, the Hearing Committee unanimously determined that a sanction less than revocation was appropriate.

The underlying misconduct which resulted in the criminal conviction occurred approximately fourteen years ago, and the criminal conviction occurred more than six years ago. Respondent has worked a physician assistant since he was terminated from the residency program in 1985. By all accounts, Respondent is a caring individual whose performance as a physician assistant has been exemplary. The Hearing Committee was particularly impressed by the outpouring of support which Respondent received from the community which he serves. This support was documented by the large number of letters of support which were submitted, as well as the testimony of the witnesses at the hearing.

Respondent suggested that a censure and reprimand would

be the appropriate sanction for his misconduct. The Hearing Committee disagrees. To this day, Respondent has not really been disciplined for his actions. It is true that Respondent is barred from holding himself out as a physician. However, he was never entitled to be a physician since he obtained his medical degree by fraudulent means. He served no time in prison, receiving only a conditional discharge in exchange for his guilty plea. As a result, the Hearing Committee unanimously determined that Respondent's right to practice as a physician assistant should be suspended and that a portion of the suspension should be actually served.

The Hearing Committee also is concerned as to whether Respondent appreciates the difference in the roles and responsibilities of a physician assistant, as opposed to those of a physician. Upon examination of Respondent by the members of the committee, it became apparent that he had difficulty in articulating those differences. Therefore, the Hearing Committee determined that a period of probation, during which Respondent's practice can be monitored, is essential.

Under the totality of the circumstances, the Hearing Committee unanimously determined that Respondent's registration to practice as a physician assistant should be suspended for a one year period. Further, two months of the suspension shall be actually served, with Respondent placed on probation for the remaining ten months. The Committee believes that this sanction strikes the appropriate balance between the need to punish Respondent, protect the public, and permit Respondent's

rehabilitation to become complete.

ORDER

Based upon the foregoing, **IT IS HEREBY ORDERED THAT:**

1. The Specification of professional misconduct, as set forth in the Statement of Charges (Petitioner's Exhibit # 1) is **SUSTAINED**;

2. Respondent's license to practice medicine as a physician assistant in New York State be and hereby is **SUSPENDED** for a period of **ONE (1) YEAR** commencing on the effective date of this Determination and Order. The final ten months of the suspension shall be stayed and Respondent placed on probation in accordance with the terms of probation which are attached to this Determination and Order in Appendix II and are incorporated herein.

DATED: Albany, New York
June 17, 1994


MICHAEL R. GOLDING, M.D. (CHAIR)

ALLAN GIBOFSKY, M.D.
GEORGE C. SIMMONS, Ed. D.

TO: Jean Bresler, Esq.
Associate Counsel
New York State Department of Health
5 Penn Plaza - 6th Floor
New York, New York 10001

Aaron Grushko, R.P.A.
2 Tulip Street
Cedarhurst, New York 11516-2623

Anthony Z. Scher, Esq.
Wood & Scher
14 Harwood Court, Suite 512
Scarsdale, New York 10583

APPENDIX I

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

-----X
IN THE MATTER :
OF : NOTICE OF
AARON GRUSHKO, RPA : REFERRAL
: PROCEEDING
-----X

TO: AARON GRUSHKO, RPA
2 Tulip Street
Cedarhurst, NY 11516-2623

CASE	15 P.M.C.
DATE	6-1-94
ACCU-SCRIBE REPORTING, INC. M S B	

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(p) (McKinney Supp. 1993) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1994). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 20th day of April, 1994 at 10:00 o'clock in the forenoon of that day at 5 Penn Plaza, 6th Floor, New York, New York 10001.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Corning Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before April 10, 1994 .

You may file a written answer, brief, and affidavits with the Committee. Six copies of all papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before April 10, 1994 and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. Pursuant to Section 301(5) of the State Administrative Procedure Act, the Department, upon

reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: New York, New York
March 15, 1994



CHRIS STERN HYMAN
Counsel
Bureau of Professional
Medical Conduct

Inquiries should be addressed to:

Jean Bresler
Associate Counsel
(212) 613-2601

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

-----X
IN THE MATTER : STATEMENT
OF : OF
AARON GRUSHKO, RPA : CHARGES
-----X

AARON GRUSHKO, RPA, the Respondent, was authorized to practice medicine as a registered Physician's Assistant in New York State by the issuance of registration number 000753 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department for the period January 1994 through December 1995.

FIRST SPECIFICATION

A. The Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6530(9)(a)(i)(McKinney Supp. 1994) in that he has been found guilty of committing an act constituting a crime under New York law.

On or about March 22, 1988, the Respondent pled guilty to violating N.Y. Educ. Law Section 6512, (McKinney 1985 and Supp. 1994),

Unauthorized Practice A Crime, in that the Respondent, who is not authorized or licensed to practice medicine as a medical doctor, practiced, offered to practice and held himself out to be able to practice medicine by performing as a resident at Kings County Hospital when he knowingly had not obtained the required medical degree which would enable him to enter into such a residence program and practice medicine.

Respondent was sentenced to a conditional discharge on or about March 22, 1988.

DATED: New York, New York

March 15, 1994



CHRIS STERN HYMAN
Counsel

Bureau of Professional Medical
Conduct

APPENDIX II

APPENDIX II
TERMS OF PROBATION

1. Mr. Grushko shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct imposed by law and by his profession.

2. Mr. Grushko shall comply with all federal, state and local laws, rules and regulations governing the practice of medicine in New York State.

3. Mr. Grushko shall submit prompt written notification to the Board addressed to the Director, office of Professional Medical conduct, Empire State Plaza, Corning Tower Building, Room 438, Albany, New York 12237, regarding any change in employment, practice, residence or telephone number, within or without New York State.

4. In the event that Mr. Grushko leaves New York to reside or practice outside the State, Mr. Grushko shall notify the Director of the Office of Professional Medical Conduct in writing at the address indicated above, by registered or certified mail, return receipt requested, of the dates of his departure and return. Periods of residency or practice outside New York shall toll the probationary period, which shall be extended by the length of residency or practice outside New York.

5. Mr. Grushko shall have quarterly meetings with an employee or designee of the Office of Professional Medical Conduct during the period of probation. During these quarterly meetings Mr. Grushko's professional performance may be reviewed by having a random selection of office records, patient records and hospital charts reviewed.

6. Mr. Grushko shall have quarterly meetings with a monitoring physician who shall review Mr. Grushko's practice. This monitoring physician shall review randomly selected medical records and evaluate whether Mr. Grushko's practice comports with generally accepted standards of medical practice. This monitoring physician shall be selected by Mr. Grushko and is subject to the approval of the Director of the Office of Professional Medical Conduct. Mr. Grushko shall not practice medicine as a physician assistant until an acceptable monitoring physician is approved by the

Director.

7. Mr. Grushko shall submit quarterly declarations, under penalty of perjury, stating whether or not there has been compliance with all terms of probation and, if not, the specifics of such non-compliance. These shall be sent to the Director of the Office of Professional Medical Conduct at the address indicated above.

8. Mr. Grushko shall submit written proof to the Director of the Office of Professional Medical Conduct at the address indicated above that he has paid all registration fees due and is currently registered to practice medicine as a physician assistant with the New York State Education Department. If Mr. Grushko elects not to practice medicine as a physician assistant in New York State, then he shall submit written proof that he has notified the New York State Education Department of that fact.

9. If there is full compliance with every term set forth herein, Mr. Grushko may practice as a physician assistant in New York State in accordance with the terms of probation; provided, however, that upon receipt of evidence of non-compliance or any other violation of the terms of probation, a violation of probation proceeding and/or such other proceedings as may be warranted, may be initiated against Mr. Grushko pursuant to New York Public Health Law §230(19) or any other applicable laws.